

Serial No.: 10/516,326
Response with RCE dated October 8, 2008
Response to final Office action dated July 8, 2008

Remarks/Arguments

Claims 1-6, 8-11, and 13-15 are pending and at issue in the present application.

In the Advisory Action dated September 30, 2008, the examiner indicates that the amendments made in Amendment B dated September 8, 2008 will be entered for purposes of appeal. Section 706.07(h) of the MPEP indicates that if an amendment to the claims or a new argument in support of patentability is filed with the fee set forth in § 1.17(e) (for an RCE), the Office will withdraw the finality of any Office action and the amendment or argument will be entered and considered. Based on section 706.07(h), and the inclusion herein of the fee set forth in § 1.17(e), the applicants respectfully request that the amendments made in Amendment B and the arguments made herein be entered for further consideration with an RCE.

As a preliminary matter, claim 8 has been amended to remove language including "a first part and a second part," which was duplicative of language in claim 1. This amendment obviates the examiner's rejection of claim 8 as indefinite.

Applicant respectfully traverses the rejection of claims 1-6, 8-11, and 13-15 in the final Office action as anticipated by *Privas* U.S. Patent No. 5,417,258.

Claim 1, and claims 2-6 and 8-11 dependent thereon, recite a dispenser having a dispenser head and a container containing spray material. The dispenser is formed such that the container can be detached from the dispenser head and refilled and/or replaced when the spray material is exhausted. The dispenser has solenoid valve means substantially enclosed in a substantially metallic locking cover means. The valve means is arranged to substantially facilitate movement of the spray material from the container to the dispenser head. The cover means is arranged to intensify a magnetic field which, when the dispenser is in use, facilitates opening and closing of the valve means. The cover means comprises a first part and a second part, wherein these two parts can lock with respect to one another. The dispenser is formed such that it can be set so the valve means opens and closes automatically and periodically to release a flow of spray material from the container to the dispenser head such that spray material is released as a spray to an atmosphere outside of the dispenser.

Claim 13, and claims 14 and 15 dependent thereon, recite a dispenser having a dispenser head and a container containing spray material. The dispenser is formed such that the container can be detached from the dispenser head and refilled and/or replaced when the spray material is exhausted.

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The dispenser has a solenoid valve means substantially enclosed in a substantially metallic locking cover means. The dispenser has a power source arranged to power opening and closing of the valve means, and the dispenser has electronic means arranged to control opening and closing of the valve means. The locking cover means has a hooked portion and an indented portion complimentary to one another such that the hooked portion can engage the indented portion to lock the cover means. The valve means is arranged to substantially facilitate movement of the spray material from the container to the spray head, and the cover means is arranged to intensify a magnetic field which, when the dispenser is in use, facilitates opening and closing of the valve means. The dispenser is formed such that it can be set so the valve means opens and closes automatically and periodically to release a flow of spray material from the container to the spray head such that spray material is released as a spray to an atmosphere outside of the dispenser.

The cited reference does not disclose or suggest a dispenser that has a solenoid valve means substantially enclosed in a substantially metallic locking cover means, wherein the cover means is arranged to intensify a magnetic field which, when the dispenser is in use, facilitates opening and closing of a valve means, as recited by claims 1-6, 8-11, and 13-15.

In fact, Privas discloses a device for spraying a fluid, wherein the device includes an actuator head 1 affixed to a tank 100 of fluid (see FIG. 22). Referring to FIGS. 27 and 28, the actuator head 1 includes a hook 107 that engages a loop 106 disposed on a top portion of the tank 100. A solenoid 13 has a soft iron core armature 12 connected to a non-magnetic rod 14 that actuates a pump 6 via a pushbutton 10, which is mounted on an actuator rod 9 (see FIG. 2) and includes a nozzle 11.

Ordinarily, the cross-hatching of an element in a cross-sectional view has meaning as to the material comprising the element. "When the material is an important feature of the invention, the symbols shown on Pages A-3-3 through A-3-5 should be used." Guide for Preparation of Patent Drawings, USPTO 2002, at page A-3-2. The symbol representative of a metal in cross-section, as indicated on page A-3-3, comprises evenly spaced evenly weighted diagonal lines. Although Privas does not disclose metal as a material for use outside of the solenoid, many components are incorrectly indicated to be made of metal by cross-hatching in various figures of Privas. For example, reference numerals 4 and 20 are described in the specification as made of thermoplastic material (Col. 8, lines 53-62), but are cross-hatched as metal. In addition, element 56 in FIG. 8A (Col. 9, line 41), element 80

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in FIGS. 11-15 (Col. 12, lines 8-9), element 114 in FIGS. 27 and 28 (Col. 17, lines 57-58), elements 112 and 126 in FIG. 33 (Col. 18, lines 28-29), and element 119 in FIGS. 38 and 39 (Col. 20, line 7) are each described as made of plastic in the specification (at the respective location therein), but are each drawn with metal cross-hatching.

Errors in the figures of Privas are not limited to misrepresentation of metal elements. For example, element 141 in FIG. 28 is described in the specification as being made of a shock absorbing material (Col. 16, lines 21-22), but is cross-hatched with a pattern described in the Guide for Preparation of Patent Drawings as "MAGNET-COIL ELECTRIC WINDING." Further, solenoid element 13 in FIGS. 27 and 28, which should be cross-hatched as MAGNET-COIL ELECTRIC WINDING, is in fact cross-hatched simply as metal, and soft iron core armature 12 in FIG. 28, which should be cross-hatched as metal, is cross-hatched with a pattern that has no meaning with respect to the Guide for Preparation of Patent Drawings.

The above-noted incorrect cross-hatching of the elements in the figures must lead to the conclusion that the cross-hatching in Privas has no meaning as to the material comprising the elements. Therefore, notwithstanding the incorrect cross-hatching indications, Privas does not disclose a solenoid valve means substantially enclosed in a substantially metallic locking cover means, wherein the cover means is arranged to intensify a magnetic field, as recited by claims 1-6, 8-11, and 13-15. Further, Privas does not suggest such a locking cover means as it is silent regarding any portion of the device outside of the solenoid 13 being made of metal. It follows that claims 1-6, 8-11, and 13-15 are not anticipated by or obvious over Privas.

In the Advisory Action dated September 30, 2008, the examiner further states that "Privas shows a metallic cover 12 substantially enclosing the solenoid, the cover intensifies a magnetic field and is locked to the actuator element 14 to actuate the dispensing valve." Advisory Action dated September 30, 2008, at paragraph 11. In full context, the specification of Privas states:

The device also includes actuator means comprising a core 12 of magnetic material such as soft iron slidably mounted with lost motion in a solenoid 13 and connected to a rod 14 which is preferably non-magnetic and which is adapted to press against the pushbutton 10 when the solenoid 13 is activated. The rod 14 is preferably connected to the pushbutton 10 and it is in axial alignment with the hollow actuator rod 9. Column 7, lines 28-37.

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Privas clearly shows that the core element 12 is, in fact, a solenoid armature that is substantially enclosed within the solenoid element 13, which is part of a solenoid valve means comprising at least elements 9-14. See Figures 2, 27, and 28. The solenoid armature 12 of Privas therefore cannot be a cover that substantially encloses the solenoid valve means.

Further, reiterating the arguments made in the Amendment B, dated September 8, 2008, and reproduced herein, the cross-hatching of the elements in the figures of Privas has no meaning as to the material comprising the elements. Notwithstanding the incorrect cross-hatching, Privas is silent regarding any portion of the device outside of the solenoid 13 being made of metal. Therefore, Privas does not disclose or suggest a solenoid valve means substantially enclosed in a substantially metallic locking cover means, wherein the cover means is arranged to intensify a magnetic field, as recited by claims 1-6, 8-11, and 13-15. It follows that claims 1-6, 8-11, and 13-15 are not anticipated by or obvious over Privas.

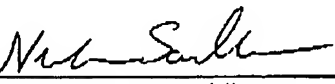
For the foregoing reasons, reconsideration and withdrawal of the rejections of the claims at issue and allowance thereof are respectfully requested.

Deposit Account Authorization

The Commissioner is hereby authorized to charge any deficiency in any amount enclosed or any additional fees which may be required during the pendency of this application under 37 CFR 1.16 or 1.17, except issue fees, to Deposit Account No. 50-1903.

Respectfully submitted,

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